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MISCELLANY.

"An Act to incorporate the Sons and Daughters of Solomon, of King George county, Virginia," is the title of a recent Virginia Act (Acts 1899-1900, p. 521). One is tempted to inquire if there has not been a serious legislative error made in locating Solomon.

NUMBERING THE VIRGINIA REPORTS.—It may be a matter of some interest to inquire how, in changing the title of the Virginia reports from the name of the reporters to the uniform title of *Virginia Reports*, the initial volume under the new style was numbered 75.

Mr. Burks, the present State Reporter, explains this in his preface to 91 Virginia, as follows:

Washington	2
Henning & Munford	4
Munford	6
Virginia Cases	2
Call	6
Gilmer	1
Randolph	6
Leigh	12
Robinson	2
Grattan	33

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A BILL FOR THE RELIEF OF INEXPERIENCED LAWYERS.—*Apropos* of the periodical agitation in Virginia for legislation which will authorize greater looseness in the rules of procedure, and convert the courts into repair shops for rickety pleadings, the following bill was recently drawn by a distinguished member of the Richmond bar, in response to a request for his assistance in furthering the passage of a bill for the amalgamation of law and equity procedure:

"A BILL TO RELIEVE LAWYERS AND IMPOSE ADDITIONAL LABORS ON THE COURTS.

"WHEREAS, There are in Virginia many lawyers who by reason of their youth or inexperience are oftentimes unable to decide with safety to their clients, whether suits should be brought in the common law or equity courts; and

"WHEREAS, The said class of lawyers should be fostered, encouraged and increased; therefore be it

"*Resolved*, That the old forms of pleading which have been in force for hundreds of years, be, and the same are, hereby so changed and modified as to abolish all distinctions between common law and equity pleadings, and that the burden of straightening out and fixing up all pleadings, both at law and in equity, be put on the judges of this commonwealth, who are amply paid to perform these and any other services required to be done for the relief of those members of the bar, for whose benefit this bill is passed."

DEFAMING THE DEAD.—The definitions of libel are sometimes inaccurately made to include a defamation of the dead as well as of the living, without pointing out that this is true only in respect to criminal cases. Lying about the dead, blackening their reputation, and insulting their memory, though it may cruelly wound their surviving family and friends, seems to be entirely beyond the reach of civil remedies. The recent Iowa decision in *Bradt v. New Nonpareil Co.*, 45 L. R. A. 681, denies the right of a mother to recover damages for a libellous publication which represented her deceased son as a dangerous criminal. This is in accord with prior authorities, both English and American. The wrong suffered by surviving members of the family of one whose good name is traduced after his death is by no means too slight for the law to regard; but the damages therefor, being confined to the feelings and mental states, cannot be measured by any certain and satisfactory rule, nor can they be allowed without much danger that they may be simulated, or, at least, greatly exaggerated. For these reasons courts have refused, wisely, no doubt, to sustain any causes of action of this character. The result is that merely spoken words, however vehemently and malignantly they may attack the reputation of a dead person, since they do not constitute a criminal offense, are entirely outside the range of legal remedies.

But the immunity of those who libel the dead extends only to civil remedies. The standard works on libel agree that even at common law it was an indictable misdemeanor to write and publish defamatory words of a deceased person, if it was done with intent to bring contempt and scandal on his family and relations and thus tend to provoke them to a breach of the peace. In various States statutes explicitly provide for the criminal prosecution of those who libel the dead, as well as those who libel the living.—*Case and Comment.*

MORTGAGES OF AFTER-ACQUIRED PROPERTY.—That a mortgage of after-acquired property is valid in equity has been said to rest on the elementary principle that equity considers as done what is agreed to be done, and therefore raises a trust for the mortgagee as soon as the property is acquired. *Tailby v. Official Receiver*, 13 App. Cas. 523. Perhaps a more satisfactory explanation is that equity gives effect to the mortgage by giving the mortgagee the only remedy of any value under the circumstances, viz., specific performance of the agreement to execute a mortgage on the chattels when acquired. *In re Clarke*, 36 Ch. D., 348. But whatever may be the explanation given, the mortgage is almost everywhere sustained. In several States, however, and notably in Massachusetts, which for a long time had no equity jurisdiction, a mortgage of after-acquired chattels is not recognized. *Chase v. Denny*, 130 Mass. 566. Possibly the rejection of the doctrine by so strong a court as that of Massachusetts influenced the decision in a recent case—*Ferguson v. Wilson*, 80 N. W. Rep. 1006 (Mich.). A chattel mortgage on certain cattle “and all other personal property which I may own or acquire during the years 1893–1899” was given to the defendant and recorded. The plaintiff claimed under a subsequent chattel mortgage. The court, while admitting that a mortgage of after-acquired property was good in equity, held that the mortgage here was void as having no connection with the property owned by the mortgagor at the time of its execution.

Probably the court means by this restriction to confine the doctrine to securities like a stock in trade. No authorities are cited and no reasons given in support of

the limitation. In fact any justification on equitable principles it is difficult to find. The idea that the chattels must be of a specific character was shown in *Tailby v. Official Receiver*, *supra*, to be without any foundation either in principle or authority. The mortgage in the principal case cannot be open to the objection of being too vague, as at the time it is to be enforced the property has come into being, and what is covered by the mortgage is known with absolute certainty. If it be contended it is bad as being too comprehensive, the answer is that wideness has never been held an objection. A covenant on a marriage settlement to settle all the property to which a husband may thereafter become entitled will be decreed specific performance, *Hurdy v. Green*, 12 Beav. 182; and there is no doubt but that a mortgage by a corporation of all its after-acquired effects is valid. *Hamlin v. Jurard*, 72 Me. 62. It is not clear why the rule applying to individuals should differ from that governing corporations. In a recent case, *In re Kelcey* [1899], 2 Ch. D. 530, a mortgage of all the mortgagor's real and personal property was sustained, and on principle there can be no sound distinction as regards invalidity because of wideness drawn between mortgages of present and future interests. The limitation in short would seem not only arbitrary, but, for all that appears, entirely unnecessary.—*Harvard Law Review*.

THE JOHN MARSHALL MEMORIAL ASSOCIATION.—The subjoined act incorporating the John Marshall Memorial Association, was passed by the Virginia legislature at its last session. The spirit of honoring the memory of the great Chief Justice has received a marked impetus since the proposition was set on foot some months ago by the Illinois State Bar Association to celebrate throughout the country the one-hundredth anniversary (February 4, 1901) of Judge Marshall's elevation to the bench of the United States Supreme Court. The bar associations of the several States, as well as the American Bar Association, have readily responded to the suggestion, and the indications are that the proposed celebration will be pre-eminently successful. It is peculiarly appropriate that there should be such an association in Virginia as that incorporated by this Act.

The Act is as follows:

BILL TO INCORPORATE JOHN MARSHALL MEMORIAL ASSOCIATION.

Senate Bill No. 433 Virginia General Assembly.

1. Be it enacted by the General Assembly of Virginia, That Melville W. Fuller, John M. Harlan and Henry Billings Brown, Washington, District of Columbia; Hillary A. Herbert, Huntsville, Alabama; U. M. Rose, Little Rock, Arkansas; David I. Withington, San Diego, California; Lyman D. Brewster, Danbury, Connecticut; George Gray, Wilmington, Delaware; Thomas Nelson Page, Washington, District of Columbia; Walter B. Hill, Macon, Georgia; Azel F. Hatch, Thomas J. Holmes, John C. Black and Adolph Moses, Chicago, Illinois; Woodrow Wilson, Princeton, New Jersey; Benjamin Harrison, Indianapolis, Indiana; Emlin McClain, Iowa City, Iowa; W. O. Harris and Alexander Pope Humphrey, Louisville, Ky.; William Wirt Howe, New Orleans, Louisiana; Charles F. Libby, Portland, Maine; Charles Marshall and Skipwith Wilmer, Baltimore, Maryland; M. F. Dickenson, Jr., Leonard A. Jones and Moorfield Storey, Boston, and George F. Hoar, Worcester, Massachusetts; William L. January, Detroit, Michigan; George P. Wanty, Grand Rapids, Michigan; H. T. Kent and Henry Hitch-

cock, St. Louis, Missouri; Charles F. Manderson, Omaha, Nebraska; R. Wayne Parker, Newark, New Jersey; James C. Carter, Walter S. Logan and John S. Wise, New York, New York; Edward Colston, Cincinnati, Ohio; James H. Hoyt, Cleveland, Ohio; George Tucker Bispham, John C. Bullitt and Francis Rawle, Philadelphia, Pennsylvania; Simon P. Wolverton, Sunbury, Pennsylvania; Amasa M. Eaton, Providence, Rhode Island; Augustine T. Smythe, Charleston, South Carolina; Ed. Baxter, Nashville, Tennessee; Edward J. Phelps, Burlington, Vermont; James M. Ambler, Parkersburg, West Virginia; R. M. Bashford and Charles Noble Gregory, Madison, Wisconsin, and the following from the State of Virginia—namely, William M. Lile, D. G. Tyler, William I. Clopton, Eppa Hunton, Jr., E. W. Saunders, William A. Anderson, H. St. George Tucker, John H. Fulton, Rufus A. Ayers, J. K. M. Norton, Micajah Woods, Harrison Robertson, James P. Harrison, A. J. Montague, Charles M. Blackford, John W. Daniel, Randolph Harrison, T. S. Garnett, W. W. Old, Alexander Hamilton, R. C. Marshall, James Lewis Anderson, Henry T. Wickham, William B. McIlwaine, Joseph Bryan, John A. Coke, Jackson Guy, William Wirt Henry, James Keith, James C. Lamb, William J. Leake, Lunsford L. Lewis, Eugene C. Massie, Wyndham R. Meredith, Beverly B. Munford, Rosewell Page, S. S. P. Patteson, David C. Richardson, William L. Royall, William Gordon Robertson, Alexander F. Robertson, and Robert T. Barton, and their successors, be, and they are hereby, incorporated as a body politic and corporate under and by the name and style of the John Marshall Memorial Association, and by that name shall have perpetual succession, a common seal which it may change at pleasure, contract and be contracted with, sue and be sued, may take and hold real estate and personal property by purchase, gift, devise or otherwise, and may sell, convey, invest, and otherwise manage or dispose of any or all property, real and personal, which it may have acquired in carrying out the objects of this act. The corporation is not to have any capital stock or to declare any dividends, as the same is not intended for pecuniary gain or benefit. The incorporators of this association being citizens from all sections of the Union, who have joined in the great work which is the object of this charter, from motives of public spirit, it is expressly declared that the acceptance of the same by them and their associates and successors in office shall in no wise render them personally liable by reason of their being incorporators or members of this association. The chief office or place of business of this corporation, and the place of holding its meetings, shall be at Richmond, Virginia.

That the object of this association is to procure by purchase the residence of Chief Justice John Marshall in the city of Richmond, and to preserve the same as nearly as can be in its original form as left by him, and to collect therein such furniture, portraits, books, manuscripts and other relics as were possessed by him or connected with his career; the same to be held and kept by the association as a perpetual memorial of Chief Justice John Marshall, and to be open, without charge, to visits that may be paid to it by any member of the bench or bar in the United States. The said association shall also be charged with the duty of caring for and protecting the section in Shockoe Hill Cemetery, Richmond, Virginia, containing the graves of Chief Justice Marshall and his wife, and of preserving the same from ruin or decay. And for such purpose the said association shall have authority to solicit from individuals, corporations and bar associations throughout the Union such donations and gifts as may be made, and such devises and be-

quests as may be left to it, whether in money, books, papers, portraits, or other property. And the association being entirely dependent for the resources with which to carry out its objects upon the liberality of admirers of the high character of the Chief Justice, and of the great services rendered by him to his country, it is provided that the names of all persons contributing shall be transcribed upon a record book, and that the same shall be safely kept among the archives of the home.

The property and affairs of the association shall be managed and controlled by the incorporators hereinbefore mentioned, and by reason of the residence of many of such incorporators being remote from the place of meeting as herein designated, and the inconvenience of attendance upon meetings from that cause, such management and control shall be vested by those in attendance at the first called meeting under this charter in twenty-five of such incorporators, to be known as the board of governors, of which the Chief Justice of the United States, ex-officio shall be a member, nine shall be from the membership of the American Bar Association and from the associate justices of the Supreme Court of the United States, to be non-residents of the State of Virginia, and the remaining fifteen to be residents of the State of Virginia, of whom eight shall be from the membership at large of the Virginia State Bar Association, not residents of the city of Richmond, and seven from the Bar Association of the City of Richmond. Any vacancy from death, refusal to act, or otherwise, occurring in the board of governors shall be filled by the three bar associations aforesaid from among their respective memberships, taking care always to preserve the apportionment between them above provided, except that the selection by the American Bar Association may be, as above provided, from the associate justices of the Supreme Court of the United States, who are non-residents of the State of Virginia, and in the event of the failure of such bar associations, or any of them, to fill such vacancy, the surviving members of the board may fill the vacancy, and in so doing they shall carry out the apportionment above provided as nearly as it is possible to do so. The board of governors may appoint from their number an executive committee of seven, to whom, subject to the control of the board, it shall be lawful to delegate the practical management of the affairs of the association.

That all the property of this association, whether real, personal, or mixed, shall be held in trust strictly for the objects hereinbefore set forth.

This act shall take effect from and after its passage.

ACTIONS AGAINST DECEDENT'S ESTATE WITHIN TWELVE MONTHS FROM QUALIFICATION OF REPRESENTATIVE—LEVY OF FIERI FACIAS ON ASSETS OF DECEDENT.—As a personal representative has twelve months after qualification to pay legacies and distributive shares (Va. Code, sec. 2706) the idea prevails somewhat extensively in Virginia that he is exempt from process at the suit of creditors during the same period. There is probably much diversity of view also, as to whether a *feri facias* may be levied on assets in the hands of the personal representative. The subjoined letter on this subject, addressed to the editor of the REGISTER by a well known member of the Virginia bar, noted for the accuracy and breadth of his legal knowledge, but who declines our request for permission to publish it under his name, will be welcomed by our local readers:

"In a recent communication you ask two questions: (1) *Can there be a judgment against a personal representative, within twelve months of his qualification?* And (2)

Can the execution on such a judgment, if rendered, be levied on the assets of the decedent in the hands of his representative to be administered?

"1. I have no trouble in my own mind in saying that there *can* be such judgment within twelve months. I think this is sufficiently covered by secs. 2654 and 2677 of the Code. No restriction is placed by either section upon the time within which such a suit may be brought, and the action might be necessary in order to prevent the bar of the statute of limitations. (Though as to the latter suggestion, see Code, sec. 2919, amended by Acts 1895-6, p. 331).

"2. I have always been strongly inclined to the opinion that an execution on such a judgment could *not* be levied on the personal property of the decedent in the hands of his representative. As I understand it, the common law made provision for priorities among the creditors of the decedent, preferring first, debts due to the crown; second, those under special statutes; third, debts of record, and fourth, specialty debts. The common law, however, accorded priority among debts of a particular class to the creditor who first obtained judgment against the decedent's representative. If the creditor sued the personal representative, the latter might plead *plene administravit*, *nulla bona*, and other pleas which would prevent judgment going against him. If he pleaded *plene administravit*, this did not protect him merely because there were other debts in existence which were entitled to priority over the debts in suit. To be protected by such a plea he must have paid the debts, but he might plead specially that there were not sufficient assets to pay the debt of the plaintiff after paying those who were entitled to priority over him, and this would be an answer to the plaintiff's action. If the pleadings or proofs showed that there was enough in the hands of the personal representative after paying debts entitled to preference, to pay a part only of the plaintiff's debt, he had judgment for that amount, and possibly for the residue to be paid out of assets which might thereafter come into the hands of the representative ("*quando acciderint*"). See *Gardner v. Vidal*, 6 Rand 106. If, however, the representative failed to enter a proper plea, and judgment was recovered against him, he became *personally* bound for the debt. He could apply so much of the estate of his intestate as was in his hands after satisfying debts entitled to priority, but the residue he must make up out of his own estate. Williams' Ex'ors, 999-1000; Schouler's Ex'ors and Adm'rs, 426. The judgment, and the execution in pursuance thereof, were *de bonis testatoris*. Upon a return of *nulla bona* on such an execution, the creditor was put to a suit to establish a *devastavit*; and, having established this, he proceeded by another suit on the bond of the representative against him and his sureties. This suit to establish the *devastavit* was dispensed with by statute in 1813 (see *Bush v. Beall*, 1 Gratt. 229, and the statutes there cited), which statute is continued in force and now constitutes sec. 2658 of the Virginia Code.

"The rule of the common law, as stated above, accorded priority to the creditor first obtaining a judgment against the administrator, over other debts of the same class. This rule the Revisors of the Code of 1849 undertook to abolish by sec. 34 of Ch. 130, which now constitutes sec. 2661 of the Code. In a note to this section, the Revisors in speaking of their intention to do away with this preference say: 'We think the measures proposed by us will effect an improvement in this state of things. We do not propose to take from any creditor who prefers to bring an action at law, the right of bringing it if he pleases. But we take away what is now

the chief inducement to such suits, when we abolish the preference now given to the first among several judgements for debts of equal dignity.' This, of itself, seems to me an indication that the Revisors intended the judgment to have the effect of merely *establishing the claim* of the creditor. In addition to this, they continued in force the act found in 1 Rev. Code, pp. 364 and 390—now found in the present Code as sec. 2659—providing that no personal representative or any surety of his shall be chargeable beyond the assets received, by reason of any omission or mistake in pleading, etc., and allowed the same defences to be made on an action on the representative's bond as could have been made in the suit to establish the *devastavit*. These statutes, I say, tend to show that the legislature merely intended the judgment against the personal representative to have the effect of *establishing the debt*.

"Sec. 2660 of the Code establishes the *order* in which debts are to be paid, and they cannot be paid in any other order. It is the right and the duty of the *personal representative* to sell the personal property, reduce it to money and pay the debts of the decedent in the order required. It is fixed by law what he shall sell and what he shall not sell, for the purpose of paying debts and legacies. Code, secs. 2650, 2651 and 2652. He holds the legal title to the property in trust for the creditors and distributees. The time is fixed when he shall settle his account, penalties are imposed for failure to settle, and ample remedy given to compel such settlements. Code, secs. 2678, 2679 and 2680.

"All of these provisions look to the sale of the personal property by the personal representative, *and by him alone*. He is compelled to account for it, and if he fails to do so may be charged with it. The Code is to be construed as a whole. It is one act of assembly, and the whole is to be construed together so as to give effect to every part of it, if possible. So construing it, it seems to me that it is necessary to hold that the personal representative, and he alone, is authorized to sell the property of the decedent; and that the general provisions with reference to sales of property under *fi. fa.* do not apply to a personal representative who holds property in trust to be applied in a particular way. To hold otherwise would be to allow one creditor to acquire priority over others of the same class, or even of a superior class, which could never have been the intention of the legislature. Ample power is given the creditor to make his debt if the assets of the estate are sufficient for that purpose, but no power is conferred anywhere, expressly or impliedly, to destroy the order of payment of debts established by sec. 2660; and all idea of such preference is expressly negatived, and in fact forbidden, by sec. 2661; so that it seems to me, looking at the Code as a whole, that *no power exists in an officer to levy on the personal property of a decedent in the hands of the personal representative to be administered*. But even if I am wrong in this, I take it that there can be no question that the representative could enjoin a sale under such execution, and have the estate administered according to law."

RECENT LEGISLATION IN VIRGINIA.—As far as we have been able to examine the Acts passed at the recent session of the Virginia legislature, the body seems to have been unusually conservative. There seems to have been a marked absence of "freak" legislation, and many of the statutes are eminently wise.

We have thought it not amiss to call attention to some of the more important Acts. The figures in parentheses in the following synopsis, refer to the pages of

the official volume of Acts, not yet issued. Where not otherwise stated, the Acts mentioned are in force from their passage.

Release of recorded liens—Amending Code, sec. 2498, with reference to releasing of liens by endorsement on the margin of deed book, and providing for the case where the evidence of debt has been lost (p. 80).

Registry of deeds—Amending Code, sec. 2465, restoring the former provision with respect to possession as notice (p. 89). See 4 Va. Law Reg. 617, 629.

Demurrers—Amending Code, sec. 3271, by adding the provision that "all demurrers shall be in writing, except in criminal cases; and in civil cases the court on motion of any party thereto shall, or, of its own motion may, require the grounds of demurrer relied on to be stated specifically in the demurrer, and no grounds shall be considered other than those so stated, but either party may amend his demurrer by stating additional grounds, or otherwise, at any time before trial" (p. 111).

Examination of adverse witnesses—Amending Code, sec. 3351, so as to read as follows:

"A party called to testify for another, having an adverse interest, may be examined by such other party according to the rules applicable to cross-examination.

"1. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may, in case the witness shall in the opinion of the court prove adverse, contradict him by other evidence, or, by leave of the court, prove that he has made at other times a statement inconsistent with his present testimony, but before said last-mentioned proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement. In every such case the court, if requested by either party, shall instruct the jury not to consider the evidence of such inconsistent statements, except for the purpose of contradicting the witness.

"2. If a witness upon cross-examination as to a former statement made by him relative to the subject matter of the proceeding, and inconsistent with his present testimony, does not distinctly admit that he has made such statement, proof may be given that he did in fact make it; but before such proof can be given the circumstances of the supposed statement sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

"3. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, relative to the subject-matter of the proceeding, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him, and the said writing shall be shown to him: provided always, that it shall be competent for the court, at any time during the trial, to require the production of the writing for its inspection, and the court may, thereupon, make such use of it for the purpose of the trial as it may think fit" (p. 124).

This statute is a radical departure from common law rules for the examination

of witnesses, heretofore prevailing in Virginia. It is understood to be a copy of the English statute. The innovation seems to be a wise one.

The numbering of the paragraphs is awkward, in that the second paragraph is numbered 1, while the first is not numbered at all.

Fees on corporate charters—Provision for the taxation of fees on court charters, when ratified by the legislature (p. 186).

This act seems to amend in some particulars, the previous Act of 1897-8, p. 677, but without referring to it. The custom is a bad one, but amendments by implication are not within the constitutional rule requiring the section amended to be re-enacted and published at length. See 3 Va. Law Reg. 367.

Separate coach bill—Requiring railroad companies to provide separate coaches for white and colored passengers (p. 236).

Sales of infants' lands—Act validating sales of infants' lands heretofore made, when irregular by reason of certain informalities mentioned (p. 275).

Dower right made separate estate—Act declaring that "the contingent rights of dower of a married woman in real estate, in which her husband has no interest, shall be her separate estate, and that (*sic*) she may dispose of the same by her sole act as if she were unmarried" (p. 291).

See 5 Va. Law Reg. 529. This Act probably refers to the case where the husband has conveyed his real estate without the joinder of the wife.

Venue of suits against non-residents—Amending Code, sec. 3214, sub-sec. 4, by the additional provision that if the action or suit be against a non-resident, it may be brought "in any county or corporation wherein he may be found and served with process" (p. 355). See 4 Va. Law Reg. 361.

Telegraph companies—Act prohibiting such companies from limiting, evading or restricting, by contract or otherwise, their liability for negligence in the sending, receiving or delivering messages (p. 369).

Scire facias on justices' judgments—Act conferring on county courts jurisdiction of *scire facias* to revive judgments of a justice (p. 372).

Fencing railroads—Amending Code, sec. 1258, by adding the provision that "through lands or lots, actually enclosed with a fence where the railroad company has already or may hereafter fence its right of way, mandamus may lie to require such company to maintain its fencing: and provided, however, that such company may at any private crossing or private wagon-way erect gates or bars in addition to the cattle-guards required by this act if in the judgment of said company the hazard to trains at such crossing requires gates or bars as an additional safeguard to life and property on the trains."

Admission to the bar—Amending Code, sec. 3192, by requiring lawyers who have been admitted in other States to stand the regular bar examination in this State, as a condition of the right to regularly practise in this State. Discretion is given to the Court of Appeals to admit without examination "any lawyer who has practiced before the supreme court of any State or territory of the United States or the District of Columbia for three years" (p. 433).

This was a much needed amendment. See 4 Va. Law Reg. 326.

Venue of warrants before a justice—Amending Code, sec. 2940, with respect to warrants before a justice (p. 445).

Liens of the Mutual Assurance Society—Act requiring the lien of this company for premiums to be recorded (p. 446).

Redemption of delinquent lands—Amending Code, sec. 664, with respect to delinquent lands purchased by the commonwealth (p. 512).

Garnishment of salaries of State officials—This Act provides that—

1. "The wages and salaries of all officials of this State, their clerks, and all employees of this State, shall be subject to garnishment or execution upon any judgment rendered against them: provided, said officials, clerks, and employees are not exempt from garnishment or levy under chapter one hundred and seventy-eight of the Code of Virginia.

2. "Whenever the salary or wages of such officials, clerks, or employees as above mentioned shall be garnished under this Act, the process shall be such as is usual in other cases of garnishment, and shall be served on the judgment debtor and on the auditor of public accounts, and upon such service the auditor shall, on or before the return day of process, transmit to the clerk of the court or justice issuing the process a certificate showing the amount due from the State to such official, clerk, or employee up to the return day of the process, which amount said auditor shall hold subject to the order of the court or justice issuing the process. Said certificate shall be evidence of all facts therein stated, unless the court or justice direct that the deposition of the auditor be taken, in which event the deposition of said auditor shall be taken in his office and returned to the clerk of the court in which the garnishment is or to the justice issuing the process just as other depositions are returned; and in no such case shall the auditor be required to leave his office to testify" (p. 545).

Since the summons on suggestion here provided for, is to be served on the auditor of public accounts, it is clear that the Act applies only to officials who are paid from the State treasury. For additional legislation as to garnishment of public officers and employees, see Acts 1897-8, pp. 353, 445. See also *Portsmouth Gas Co. v. Sanford*, 5 Va. Law Reg. 172, and note by Prof. M. P. Burks.

Venire facias in criminal cases—Amending Code, sec. 4018, as amended by Acts of 1895-6, p. 264 (p. 566).

In comparing the last with the former amendment the only change observed is in substituting "*such* offense" for "*the* offense" in the clause reading "residing remote from the place where *the* offense is charged to have been committed." The materiality of the change is not apparent.

Reinstatement of chancery causes—Act authorizing the reinstatement of chancery causes on the docket, where a special commissioner to convey property dies, or is incapacitated, before executing conveyance (p. 582).

Qualification of arbitrators under fire insurance policies—Providing that the arbitrators and umpires to assess losses under fire insurance policies shall be "citizens and actual residents" of Virginia, and shall be sworn (p. 602).

Insurance policies—Provision that answers to interrogatories in an application for insurance shall not bar right of recovery in case of loss, unless the same be "wilfully false or fraudulently made, or that it was material" (p. 550).